IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1440 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARBALA M. SHUKLA & 4 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR SP MAJMUDAR for Applicant(s) : 1 - 5.MR PP MAJMUDAR for Applicant(s) : 1 - 5.
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR VIMAL A PUROHIT for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/08/2007

ORAL JUDGMENT

Rule. Shri RC Kodekar, learned APP waives service of rule on behalf of the respondent State.

2. By way of this petition under Article 226 of the Constitution of India r/w 482 of Criminal Procedure Code, the petitioners, original accused have prayed for an appropriate order to quash the criminal complaint being C.R. No. I 46 of 2006 registered with Mahila Police Station, Karanj Ahmedabad as well as charge sheet No.49/06 filed therein.

3. A criminal complaint came to be filed by the respondent No.2 herein before the Mahila Police Station, Ahmedabad against the petitioners for the offence u/s 498-A, 294-B, 506(1) r/w 114 of the IPC and section 3 and 4 of the Dowry Prohibition Act and after the investigation, the Investigating Officer has submitted charge sheet before the competent Court. The petitioners have prayed to quash the aforesaid complaint by submitting that the petitioners have not committed the offence as alleged against them and also on the ground that the dispute between the parties is amicably settled and the respondent No.2, original complainant does not want to proceed further with the aforesaid complaint in view of the settlement arrived at before the Family Court, wherein the divorce petition is decreed by the ld. Family Court vide judgment and order dated 14-4-2007.

4. Considering the above, this Court issued the notice upon respondent No.2, original complainant and today when the matter is called out, the respondent No.2 herein, original complainant Punita J. Mehta is

personally present in the Court and she has categorically made the statement that the parties have settled the dispute and that she has got permanent alimony and has no objection, if the complaint is quashed. Considering the above and in the facts and circumstances of the case, it appears to the Court that if the criminal proceedings are continued, the same would not be in the interest of parties and the same would unnecessarily harass the parties. It also appears to the Court that considering the stand taken by the respondent No.2 herein now, there are bleak chances of conviction of the petitioners at the time of trial, as during the trial, the respondent No.2 may not support the prosecution in view of the subsequent development and the settlement arrived at between the parties. Under the circumstances, this is a fit case to exercise powers u/s 482 of Criminal Procedure Code and to quash the aforesaid complaint and the charge sheet filed therein.

5. For the reasons stated above, the petition succeeds. The impugned complaint being C.R. No. I 46 of 2006 registered with Mahila Police Station, Karanj Ahmedabad as well as charge sheet No.49/06 filed therein against the petitioners are hereby quashed and set aside. Rule made absolute.

(M.R. Shah, J.)

shekhar/-